IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4603 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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PRAHLADJI SOMAJI THAKORE

Versus

STATE OF GUJARAT

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Appearance:

MR SB VAKIL for Petitioner No. 1
MR BY MANKAD AGP for Respondent No. 1

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 26/12/2001

ORAL JUDGEMENT

The petitioner has challenged the illegal and arbitrary order dated 25-8-1983 issued under the signature of the Section Officer, Revenue Department, Government of Gujarat, whereby the petitioner has been restrained not to transfer the land in question or not

make any construction or not to change nature of the land till further orders in respect of the land bearing Survey No. 418/2 and Gamtal land of village Vejalpur within the Ahmedabad Urban Agglomeration admeasuring 2185 sq. mtrs. on the ground that the permission dated 2-11-1982 was proposed to be revised under Section 34 of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the ULC Act).

2. Learned counsel for the petitioner states that the originally land belonged to the petitioner's father Somaji Viraji Thakor who expired on 28-11-75 leaving behind him two heirs who inherited the land in equal share as appears from the mutation entry No. 3794. The competent authority held that there was no excess or surplus land under the ULC Act. The Government has proposed to revise that order under Section 34 of the ULC Act and that has been challenged by the petitioner in this petition. The petitioner has also contended that as the possession of the land has not been taken over by the Government or by any authority under the ULC Act, the provisions of the Urban (Ceiling and Regulation) Repeal Act, 1999 would be applicable and the proceedings will stand abated as per Section 4 of the aforesaid ULC Act, all the proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Ordinance, before any Court, tribunal or any authority shall abate. The provisions of Section 4 of the ULC Act would not be applicable to the proceeding relating to Section 11, 12 and 13 of the Principal Act in so far as the proceedings are related to the land the possession of which has been taken over by the State Government or any person authorised by the State Government in that behalf or by any competent authority. As the possession of the land in question has not been taken over by the State Government or any person authorised by the State Government, the State Government passed the order for revision restraining the petitioner from transferring the land or from making construction or changing its character. As such, the possession of the land in question has not been taken over by the State Government, the proceedings of the land in question stands abated.

3. In view of the above discussion, this petition is dismissed. Rule is discharged, with no order as to costs.

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/JVSatwara/